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House Bill _____
By _____

Senate No. SB0627
By Womack

AN ACT to amend Tennessee Code Annotated, Section 63-6-204;
Section 63-6-225 and Title 65, Chapter 11, relative to the
practice of medicine and to physician fees.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 63-6-204, is amended by adding the
following as a new appropriately designated subsection:

() (1) Notwithstanding any other provision of law, a person, corporation,
organization, or other entity, may employ directly or indirectly a physician provided that
the employment relationship between the physician and the person, corporation,
organization, or other entity is evidenced by a written contract containing language which
does not unreasonably restrict the physician from maintaining medical staff privileges at
or admitting patients in other area hospital facilities, or from exercising independent
medical judgment in diagnosing and treating patients. Notwithstanding anything to the
contrary herein, physicians in an employment relationship shall not be required to make
referrals that are adverse to the patient's care and treatment. Under this section such
person, corporation, organization, or other entity shall not be deemed to be engaged in

the practice of medicine. In those instances wherein hospitals employ directly or indirectly physicians pursuant to this section, the hospitals shall not limit membership in their medical staffs to directly or indirectly employed physicians; nor shall restrictions on medical staff membership unreasonably impair otherwise qualified practitioners from gaining or maintaining membership if the impact of said restrictions is to prevent the diversity of the community served from being reflected by the medical staff make-up except that notwithstanding the above hospitals that serve as major teaching facilities for medical schools accredited by the Liaison Committee on Medical Education LCME may restrict medical staff membership to ualified faculty.

(2) Nothing under this section, or under Title 63 68, shall be construed as authorizing health care facilities licensed in this state to substitute physician employment contracts for medical staff privileges, or the due process protections attendant thereto pursuant to the Health Care Quality Improvement Act of 1986 (42 U.S.C. §§11101, et seq.), unless otherwise expressly agreed to in a physician employment contract that satisfies the following standards:

(A) The agreement establishes a bona fide employment relationship, as defined in 26 U.S.C. 3 121(d)(2) of the Internal Revenue Code.

(B) The agreement is set out in writing and signed by the parties.

(C) The agreement specifies the services to be provided by the physician.

(D) The term of the agreement is for not less than one (1) year.

(E) The compensation paid to the physician is consistent with fair market value in arms-length transactions and is not determined in a manner that takes into account the volume or value of any referrals by the physician; provided, however, this standard shall not preclude the payment of remuneration in the

form of a productivity bonus, as permitted by federal law, based on services performed or supervised by the physician or provided incident to such services.

(3) Nothing in this section removes the responsibility of a physician to comply with the licensure laws of this title.

(4) Any employer of a physician, surgeon, or other licensed practitioner shall hold in confidence and not disclose confidential information pertaining to a patient's diagnosis, treatment, or health, except upon the patient's request or consent or when disclosure is otherwise permitted or required by law.

(5) An employer of a physician shall not discriminate unlawfully on the basis of race, sex, national origin, or physical disability.

(6) Nothing in this act shall be construed to prohibit a court having jurisdiction in a workers' compensation case from ordering available treatment of a claimant by a physician who is not in an employment relationship as defined by this subsection. If the SECTION 2. Tennessee Code Annotated, Section 63-6-225, is amended by deleting the period which appears at the end of subsection (a) and substituting instead a semicolon";" and by adding the following new language:provided, however, compensation to a physician pursuant to any employment or other contractual agreement or arrangement between the physician and a person, corporation, organization, or other entity that does not constitute the practice of medicine under Section 63-6-204 shall not constitute, or be deemed to constitute, the division of fees under this section.

SECTION 3. Tennessee Code Annotated, Section 68-11-205, is amended by adding the following language:

provided, however, nothing herein shall prohibit a hospital licensed under this part, or a parent, subsidiary, or sister corporation thereof, from employing a physician in accordance with Section 63-6-204.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.